IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.109 of 2006

BHAGWAT KUMAR PATHAK, SON OF LATE MADAN MOHAN PATHAK, RESIDENT OF VILLAGE AND P.O. BAIKATPUR, P.S. KHUSRUPUR, DISTRICT PATNA. .

Versus

1. THE STATE OF BIHAR
2. DISTRICT MAGISTRATE, PATNA DISTRICT PATNA.
3. DEPUTY DEVELOPMENT COMMISSIONER, PATNA, DISTRICT PATNA.
4. DISTRICT DEVELOPMENT OFFICER, PATNA, DISTRICT PATNA.
5. DEPUTY COLLECTOR LAND REFORMS, PATNA CITY, DISTRICT PATNA.
6. EXECUTIVE ENGINEER, RURAL DEVELOPMENT DEPARTMENT CUM DIVISIONAL COMMISSIONER, SPECIAL DIVISION, PATNA.
7. BLOCK DEVELOPMENT OFFICER, KHUSRUPUR BLOCK, DISTRICT PATNA.
8. NARESH GOPE SON OF LATE GURUSHARAN GOPE.
9. RAM DHYAN GOPE SON OF LATE SHIWAL GOPE.
10. RAM BARAN GOPE SON OF LATE BINDA GOPE.
11. DWARIKA GOPE SON OF LATE GURUSHARAN GOPE.
12. AMIRAK GOPE SON OF LATE GURUSHARAN GOPE., ALL RESIDENT OF VILLAGE BAIKATPUR, TOLE SAHIM CHAK, P.S. KHUSRUPUR, DISTRICT PATNA.

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03. 20.01.2011 Heard learned counsel for the petitioner and the State as also perused the contents of the counter affidavit.

2. Petitioner claims himself to be the raiyat of plot nos.978, 1351 appertaining to khata no.147 area 58, 33 decimals respectively. It is submitted on behalf of the petitioner that encroaching portions of the two plots a brick road has been laid over the portions of the two plots without either obtaining his consent or acquiring the land.

3. From the counter affidavit, paragraph-8 it appears Sri Gurusaran Mahto and heirs of late Raghunandan Mahto gave consent for laying the brick road over part of plot no.1351. It is submitted that form the documents annexed with the counter affidavit it appears that

said Gurusaran Mahto and heirs of late Raghunandan Mahto acquired the lands of plot no.1351 through sale deed. Petitioner disputes the contents of the sale deed as according to him the lands of plot nos.978 and 1351 are his khatiyani land and name of his ancestor is recorded in the khatiyan.

4. Having heard counsel for the parties, I direct the petitioner to appear before the Deputy Collector, Land Reform, Patna City, who should visit the two plots along with Anchal Amin and get the two plots measured after verifying the documents of title of petitioner, Gurusaran Mahto and heirs of late Raghunandan Mahto. In case, the Deputy Collector, Land Reform is satisfied that petitioner is the raiyat of the two plots, he shall ensure that the brick road raised over the two plots without the consent of the petitioner is removed. Compliance of this order be made, as early as possible, in any case within two months from the date of receipt/production of a copy of this order before the Deputy Collector, Land Reform. After verification of the documents produced by the petitioner, Gurusaran Mahto and heirs of late Raghunandan Mahto, the Deputy Collector, Land Reform should first record finding as to who is the raiyat of the two plots, thereafter he should proceed for measurement of the two plots and removal of the brick road from the same. Petitioner is directed to put his signature over the measurement report.

5. The writ application is, accordingly, disposed of.

Rajesh/ **(V.N. Sinha, J.)**

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